IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1111 OF 2004

The State of Maharashtra ..... Appellant.

V/s

Suresh Dattatraya Mohol
Age 44 years, Occ. Service,
R/o. Mutha, Tal. Mulshi,
District Pune. ..... Respondent.

Mr. Y. M. Nakhwa, App for appellant - State.

None for the Respondent.

CORAM: V.M. KANADE, J.
DATE : 10th October, 2007.

ORAL JUDGMENT:

1. The State is challenging the judgment and order passed by the Court of Sessions in Special Case No. 5 of 2004 whereby respondent - accused was acquitted of the offence punishable under section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with the provisions of section 7(1)(d) of the Protection of Civil Rights Act, 1955 and 504, 506(2) of the Indian Penal Code.

2. Brief facts in a nutshell are as under:-

3. The case of the prosecution is that the complainant belongs to Matang Caste and that he is residing in a slum known as Bal Tarun Mandal at Kothrud. The accused Suresh, respondent herein, was residing in a house which was adjacent to the house of the complainant and, some time in the year 2001, Pune Municipal Corporation demolished some of the huts. Thereafter, accused had shifted his residence to Shila Vihar Colony. The accused, therefore, according to the prosecution, had a grudge against the complainant. On 12/01/2004, according to the prosecution, the accused came near the house of the complainant and abused him in the name of his caste and told him to vacate the suit premises, else, he would cut his hands and legs. The accused also caught hold the neck of the complainant and assaulted him with fist and blows and threatened the complainant to kill him. A complaint was lodged after a lapse of 12 days. Alongwith the complaint, complainant produced a Caste Certificate and an offence was registered by the Police and spot panchanama was prepared. Statements of witnesses were recorded and the case was committed to the District Court for trial.

4. The Trial Court disbelieved the testimony of the complainant on the ground that it was inconsistent and contradictory and that it was not safe to rely on the evidence of the complainant. The Trial Court also expressed its doubt regarding actual words which were used by the accused

since the complainant in his evidence had given different version about what was actually said on the date of the incident. The Trial Court also observed that the other witness was related to the complainant and his testimony was also not considered to be reliable on number of counts. The Court also held that the delay in filing complaint was not explained.

5. The prosecution examined two witnesses viz. complainant - P.W.1 and P.W. 2 - Sidram. It was established that the complainant belonged to Matang Community which is declared as Scheduled Caste Community in the presidential order.

6. After having perused the judgment and order of the Trial Court and notes of evidence, in my view, no case is made out for grant of leave. There is no evidence to suggest that the accused had abused the complainant on the basis of his caste. The record indicates that, essentially, it was a dispute in respect of the premises and that the accused had a grudge against the complainant since his hut was demolished by the Corporation. There is no reason, therefore, to interfere with the impugned order. Leave is accordingly refused. Appeal does not survive.

(V.M. KANADE, J.)